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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,652	07/09/2003	Kristian DiMatteo	1001.1309103	9311

28075 7590 01/25/2007  
CROMPTON, SEAGER & TUFTE, LLC  
1221 NICOLLET AVENUE  
SUITE 800  
MINNEAPOLIS, MN 55403-2420

EXAMINER
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YABUT, DIANE D

ART UNIT	PAPER NUMBER
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3734

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/25/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/615,652	<b>Applicant(s)</b> DIMATTEO, KRISTIAN	
	<b>Examiner</b> Diane Yabut	<b>Art Unit</b> 3734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 November 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11,453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-26 and 34-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-26 and 34-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 November 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

### DETAILED ACTION

This action is in response to applicant's amendment received on 7 November 2006. Examiner acknowledges the changes made to the drawings and specification, and therefore the objections to the drawings have been withdrawn. The examiner also acknowledges the amendments to the claims.

### *Terminal Disclaimer*

1. The terminal disclaimer filed on 7 November 2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of patent no. 6,217,600 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 20-23, 25-26, 34-36, and 38-40 are rejected under 35 U.S.C. 102(a) as being anticipated by **Ravenscroft et al.** (U.S. Patent No. **6,007,558**).

Claims 20-23, 25, 34, and 38-40: Ravenscroft et al. discloses a conically-shaped filtering basket including an apex, comprising a body member **12**, a plurality of struts, or arms, **26** that are substantially straight and have a distal, or first, end region and a

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proximal, or second, end region wherein the proximal end region is fixedly attached to the body member with the struts extending therefrom, each arm including a joined end fixedly attached to the apex, and a plurality of anchoring members **28** disposed on a distal end of each of the struts, and a weakened region, or reduced cross-sectional area region, **30** defined in each of the struts adjacent the anchoring member (Figures 1-2).

Claim 26: Ravenscroft et al. discloses the struts having bends **42** (Figure 10).

Claims 35-36: Ravenscroft et al. discloses the reduced cross-sectional area region **30** being defined by a notch or divet, wherein a "notch" and a "divet" are both understood as meaning an "indentation" (Figure 2).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ravenscroft et al. (U.S. Patent No. 6,007,558) in view of El-Nounou et al. (U.S. Patent No. 5,242,462).

Claim 24: Ravenscroft et al. discloses the claimed device except for the body member including a bore.

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El-Nounou et al. teaches a filter device with a body member **62** having a bore **68** which is beneficial in receiving a guidewire during manipulation of the filter (Figure 7 and col. 4, lines 51-53, col. 2, lines 35-42). It would have been obvious to one of ordinary skill in the art at the time of invention to provide a bore in the body member, as taught by El-Nounou et al., to Ravenscroft et al. in order to manipulate the filter device by a guidewire or hook.

6. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Ravenscroft et al.** (U.S. Patent No. **6,007,558**) in view of **Ambrisco et al.** (U.S. Patent No. **6,007,557**).

Claim 37: Ravenscroft et al. discloses the claimed device except for the reduced-cross sectional area being defined by an opening in the strut.

Ambrisco et al. teaches a reduced cross-sectional area defined by an opening **318** in a strut **312** which can be useful in allowing a guidewire or hook to pass through for manipulation of the filter device (Figure 36C and col. 20, lines 1-15). It would have been obvious to one of ordinary skill in the art at the time of invention to provide an opening in the strut, as taught by Ambrisco et al., to Ravenscroft et al. in order to manipulate the filter device by a guidewire or hook.

### ***Response to Arguments***

7. Applicant's arguments filed 7 November 2006 have been fully considered but they are not persuasive.

Applicant generally argues that the plurality of struts are not *fixedly attached* to the body member in Ravenscroft, *fixedly attached* (as well as *each arm including a joined end fixedly attached to the apex* being limitations that were amended in the claims). The examiner disagrees. It is reasonable to consider the plurality of struts being fixedly attached to the body member by way of elements **34** and **36** in Ravenscroft (see Figure 4), and therefore the device of Ravenscroft reads on Claims 20, 34, and 38-40, as maintained in paragraph 3 above.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diane Yabut whose telephone number is (571) 272-6831. The examiner can normally be reached on M-F: 9AM-4PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on (571) 272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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MICHAEL J. HAYES  
SUPERVISORY PATENT EXAMINER